

U.S. BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

IN RE: Robert W. Hughes

Chapter 13
Case No. 18-61037

Debtor(s)

MOTION BY DEBTOR(S) TO SELL REAL PROPERTY
FREE AND CLEAR OF LIENS

1. This action is brought by Robert W. Hughes, Debtor(s) in the above-captioned proceeding, to obtain this Court's permission for the sale of real estate free and clear of liens.
2. This Court has exclusive jurisdiction over the property in question under 28 U.S.C. §1334. This is a core matter.
3. The real estate of the Debtor(s) located at 23 Camping Ridge, Nellysford, VA, is presently assessed at \$253,100.00 and is owned by Debtor and Patricia M. Hughes as tenants by the entirety.
4. Said real estate is encumbered by a first mortgage held by Mr. Cooper (Nationstar) in the amount of approximately \$95,320.00 and by a second mortgage held by Wells Fargo Bank in the amount of approximately \$41,997.00.
5. The Debtor(s) have claimed their interest in the property as exempt on the basis that they own it as tenants by the entirety as husband and wife and that the only equity available is to pay joint creditors.
6. The Debtor(s) wishes to sell the real estate, with a portion of the net proceeds to be paid to the Chapter 13 Trustee and disbursed by the Trustee pursuant to the Plan.
7. The Debtor(s) has entered into a contract for sale of the property for \$315,000.00, a

copy of which is attached hereto and incorporated herein by reference. Paragraph 31 of the contract makes the contract contingent upon the approval of this Bankruptcy Court.

8. In accordance with Local Rule 6004-3, the Debtor(s) avers that:

- a. the total proposed sale price is \$315,000.00.
- b. the amount of the loan proceeds to be held by the Trustee and applied to the debtor's obligations under the proposed amended plan, once confirmed, is \$57,000.00;
- c. such payment will result in full payment of all allowed classified joint unsecured claims as contemplated by the proposed amended plan, and payment toward remaining allowed claims as contemplated by the proposed amended plan, and
- d. the remaining loan proceeds, estimated to be \$111,000.00, will be paid to the Debtor(s) for the purpose of purchasing a new home upon relocating.

9. Such a sale, which would realize the full value of the real estate, would not prejudice the rights of any party, and would allow those lienholders with liens not avoidable to realize their security.

WHEREFORE, Debtor(s) requests the Court to enter an Order permitting the sale of the real estate free and clear of liens, and \$57,000 net proceeds to be paid to the Chapter 13 Trustee to be disbursed according to the proposed amended Chapter 13 Plan once confirmed, and the remaining portion, if any, paid to the Debtor(s).

APPLICATION FOR COUNSEL FEES

COMES NOW counsel for the Debtor(s) herein, and hereby applies for unpaid attorney's fees to be paid by the Chapter 13 Trustee as an administrative expense regarding Motion and Order to Sell. Counsel for Debtor(s) certifies that the following services were or will be performed in connection with this matter:

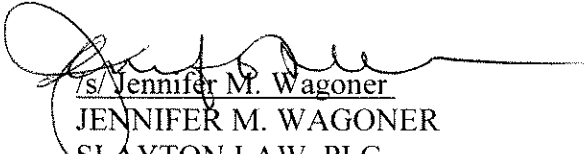
1. Communication with Debtor(s);
1. Filing of pleadings, to-wit Motion and Order; and
2. Appearance at the hearing.

WHEREFORE, the Court is respectfully requested to enter an Order directing the payment of \$400.00 for attorney's fees plus \$181.00 filing fee to the undersigned counsel for the Debtor(s) as an administrative expense by the Chapter 13 Trustee.

Respectfully submitted,

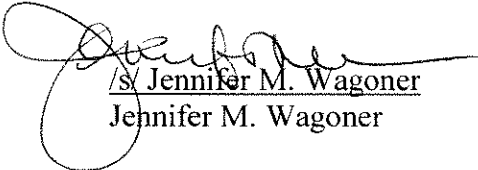
Robert W. Hughes

By Counsel


/s/ Jennifer M. Wagoner
JENNIFER M. WAGONER
SLAYTON LAW, PLC
913 East Jefferson Street
Charlottesville, VA 22902
Phone: 434-979-7900
Counsel for Debtor(s)

NOTICE OF HEARING

On application of the Debtor(s) in the above-entitled case, notice is hereby given of the hearing on the foregoing Motions which is scheduled to be held on 10/31/18, at 9:30 a.m. at 1101 Court St., Room 210, Lynchburg, VA.

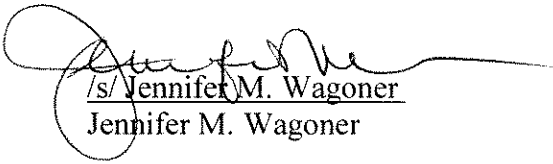

/s/ Jennifer M. Wagoner
Jennifer M. Wagoner

10/18/18
Date

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was sent to the Bankruptcy Trustee via ECF, and was submitted to the BAE SYSTEMS Noticing Center for servicing via first-class mail to all creditors and to the Debtor(s), on 10/18/18. Certification from the BAE SYSTEMS Noticing Center will follow.

The attachment is available in CM/ECF.


/s/ Jennifer M. Wagoner
Jennifer M. Wagoner